



**U.S. Citizenship
and Immigration
Services**

Freedom of Information Act and Privacy Act Case Create Guide

NRC FOIA Policy and Training

01/19/2022

Foreword

The United States Citizenship and Immigration Services (USCIS) Freedom of Information Act (FOIA) and Privacy Act (PA) Case Create Guide (CCG) is ready reference to assist with case creating of FOIA and PA requests.

Rulemaking process for the Guide

The FOIA Officer, the Chief of FOIA Operations and your Supervisors direct how Government Information Specialists (GIS) and Office Automation (OA) personnel accomplish their missions. Through the Chief of Operations, Supervisors submit a new rule or procedure to the Policy and Training Section. At the direction of the FOIA Officer the Policy and Training Section may immediately amend the guide, or they may seek clarification from Office of Chief Counsel (OCC). After consultation, Policy and Training Section will either amend the Guide or propose a modified rule to FOIA/PA Supervisors, the Chief of FOIA Operations and the FOIA Officer. Re-writes or revisions of the guide are subject to the final approval of the FOIA Officer.

- If you notice something in the guide that is; awkwardly worded, contains a typographical error, is out of date guidance, contact your supervisor and they in turn will contact the Policy and Training Section.
- Before we amend the guide, we may first publish a FOIA Information Bulletin
 - The exception being a misspelled word, a missing punctuation mark or a grammatical error.

FOIA Information Bulletins and the latest version of this Guide are available at:

https://ecn.uscis.dhs.gov/team/esd/Division/NRC/Branches/FOIA_OPS/kmg/SitePages/Home.aspx#InplviewHase7f2c638-1bcb-445b-a322-578f87a5278d=ShowInGrid%3DTrue

The Freedom of Information Act

The United States Citizenship and Immigration Services (USCIS) Freedom of Information Act (FOIA) and Congress passed the Freedom of Information Act (FOIA) in 1966 to establish the public's right to access records created or maintained by federal executive branch agencies. The statute became effective on July 4, 1967. The statute relating to the Freedom of Information Act is 5 U.S.C. § 552.

The Privacy Act

The Privacy Act of 1974 regulates the collection, maintenance, use, and dissemination of personal information by the federal government. The statute relating to the Privacy Act is 5 U.S. C. § 552a. The statute became effective September 27, 1975.

FOIA Time Limit

Under the law, all federal agencies are required to respond to a **FOIA** request within 20 business days, unless there are "unusual circumstances." This **time period** generally begins when the request is received by the **FOIA** office of the component that maintains the records sought.

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Pages 6-21 intentionally omitted

Changes to Existing Cases

A request may state that it is related to an existing case. The existing case number may be included or may be found during the duplicate search.

Examples of requests that are changes to existing cases:

- Status questions regarding an existing case
- Track changes regarding an existing case

For requests that are changes to existing cases:

- Go to the letters tab
- Go to Documents
- Select the arrow next to the request letter
- Click on the 3 dots and you will see a drop-down menu
- Select “COPY Document to Research Queue”
- Add a Case Note actions taken
- Select Action button, then select close case as ER
- Send case to Upfront-Approver
- Email assigned supervisor actions taken

Unrelated Request

If a case contains two or more unrelated requests, **Do not** create a parent/child case.

For unrelated requests scanned into one case, follow the steps below:

- Fill out the left side with the pertinent subject information
- Case note the discrepancy along with the page numbers in the Special Scenario
- Send the case to Admin
- Email the nrcFOIAFIRSTProgram@uscis.dhs.gov mailbox and CC assigned Supervisor

UNP

NRC receives requests that are missing VOI and Certification of Agreement from Department of Homeland Security (DHS) headquarters, which are called unperfected requests. The following email address indicates an UNP request: webpublishing@hq.dhs.gov

If you receive this type of request:

- Email nrc.foiaunp@uscis.dhs.gov
- CC your supervisor
- Add a Case Note of your actions
- Move the case to Admin

Withdrawal of a Request

A Requestor must send us a document to withdraw a pending request.

Upon receipt of a written request to withdraw a FOIA:

- Save the written request as a pdf
- Upload the pdf directly into FIRST as a CSD
- Add a case note indicating the request was withdrawn, per uploaded CSD
- Close as a WD
- Send the case to Upfront Approver

SIG

The Significant Interest Group, processes non-A-file FOIA requests with a few exceptions. Send requests involving A-files belonging to high-profile individuals, along with all A-file requests submitted by the media, to SIG for handling.

Examples of requests that are considered under SIG preview:

- Direct the following FOIA requests to SIG for handling if the request is for or from the following:
 - Member of media
 - Member of an activist group, watchdog organization, special interest group, etc.
 - Such organizations include: AILA, ACLU, CAIR, CREW, EFF
- Vacancy announcement
- Personnel records
- Records related to an investigation.
- Report of Investigation
- OSI Investigation
- Background Investigation
- USCIS contract
- USCIS grant program
- P-files (Petition files)
- RAIO cases/WRAPS records
- “EB-5” or “Regional Center” records
- Data/statistics
- PA amendment
- Hybrid, the Requestor is seeking both A-file material AND non-A-file material (for example: “My child’s A-file and all USCIS adjudication policies for Vietnam adoptions”)
- Emails

Note: Items listed above are suggestive and not exclusive.

If you believe a request qualifies as a SIG, Create the case as follows:

- Track 2
- Type: FOIA Request
- Source: Other
- Category: Other
- **Do not** enter an A-number
- Complete as much of the left side of FIRST as possible
- Send an e-mail to foiasig.nrc@uscis.dhs.gov and CC assigned supervisor
- Enter a case note into FIRST explaining the situation
- Send the case to **Admin** queue

A SIG processor will review the case and move it to their queue if it is truly a SIG case.

For blended requests, SIG needs to address a portion of the request, SIG will send the case back to the NRC FOIA/PA Assistant to create a child case. After creating a child case, the FOIA/PA Assistant sends an email to SIG with the new child case number so that it can be transferred to SIG (COW Queue).

Forms I-526 and I-829 are petitions filed by an alien entrepreneur. If, while researching the receipt file, you discover in PCQS that the receipt is either a Form I-526 or Form I-829, take the following actions:

- Send an e-mail to SIG and CC assigned supervisor stating that NRC201XXXXXXX (your case number) is requesting copies of an I-526 or I-829 receipt file
- Add a case note actions taken
- Send the case to **Admin** queue.

Form I-694 Notice of Appeal of Decision

When a request has the I-694, Notice of Appeal of Decision Under Sections 245A or 210 of the Immigration

and Nationality Act (INA), scanned as the FOIA request letter:

- Verify Verification of Identity (VOI) and/or Certification of Agreement (COA) if needed
- Do not close an I-694 request TD or FC for not providing all the required elements of Certification of Agreement or VOI with the original request
- Create a Case note

If VOI or Certification of Agreement is not necessary and responsive records are scanned into the case, send the case to processor.

Referrals and Consultations Received from Other Agencies

Other government agencies' and DHS components' FOIA/PA offices will make the determination to refer a FOIA request to the USCIS FOIA office at the NRC for a direct response to the Requestor. The referral can be complete or partial.

Complete Referrals - A complete referral comes from another government agency or DHS component in which either the entirety or a segregable portion of the request falls under the purview of USCIS. If the referral is a request for an A-file or A-file material (petition, application, etc.) create the case as if the request came directly to the NRC.

Partial Referrals - As other agencies process FOIA/PA requests, they will sometimes find USCIS documents within their files. These documents will be referred to us for processing. The majority of partial referrals come from the Office of Personnel Management (OPM), Department of State, and the Federal Bureau of Investigation (FBI). SIG processes all partial referrals.

Searches

The information provided in the request and captured by the Case Creator will be compared to the information found in systems searched to determine if it is the correct person or not based on the information provided.

If a case is lacking sufficient information to verify ownership of records/files, and/or information provided does not match sufficiently to the A-number provided, the case will be closed as No Record (NR). (See No Record section)

A-file - Includes the A-file and all electronic records (records in EDMS/STACKS and ELIS except ELIS I-765). Do not staff for receipt files unless an A-file or electronic record is not found.

- If the request is for the entire A-file, but you only find a receipt file, select Track 1, specific documents, and under section 3 choose "Other" and select "Alien File" from the dropdown menu.

All Records Requests - Includes the A-file, all electronic records and all staffable receipt files found in PCIS (this includes all I-765 receipts found in ELIS and PCIS). Always enter additional records/files found and being staffed under USCIS Information.

Receipt request – If the receipt is a **petition**, verification of subject's role is required, is the subject the **Petitioner or Beneficiary**? If the subject is the petitioner, then that document will be an unconsolidated receipt or it will be in the beneficiary's file, not the petitioner's A-file.

- If a receipt has been consolidated into the beneficiary's A-file, certification of agreement (COA) from the beneficiary is required or the case will be closed as a Total Denial (TD).
- If the Receipt file is consolidated, leave the "Application, Petition or Receipt Number" section blank and add a case note that the receipt file is consolidated.
- If there is a request for an I-130 petition, conduct a search for the I-130. If the receipt cannot be found and consent and VOI from the beneficiary are provided, staff for the beneficiary's A-file and **do not** staff for the petitioner's A-file.